DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY BAFlook DATE 2/12/80
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PAGE 01 STATE 027294
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APPROVED BY EA/K:MRRICH
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E.O. 11652: N/A
TAGS: PDIP, KS, US
SUBJECT: DEPARTMENT REACTION TO PRESS QUERIES ON TESTIMONY BY ROK DIPLOMATS AND TONGSUN PARK AGREEMENT TO TESTIFY BEFORE CONGRESS
1. DEPARTMENT PROVIDED THE FOLLOWING TO MEDIA REPRESENTATIVES AT NOON BRIEFING FEBRUARY 1 IN RESPONSE TO A QUESTION TAKEN BY THE SPOKESMAN JANUARY 31.
QUESTION: THE ETHICS COMMITTEE HAS REQUESTED SOUTH KOREA TO PRODUCE FORMER AMBASSADOR KIM. DOES THE STATE DEPART-
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MENT HAVE ANY POSITION ON DIPLOMATS WITH IMMUNITY BEING QUESTIONED BY CONGRESS?
ANSWER: ARTICLE 31 OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS (A TREATY TO WHICH THE UNITED STATES IS A PARTY) PROVIDES THAT A DIPLOMAT IS NOT OBLIGED TO GIVE EVIDENCE AS A WITNESS. THE EVIDENT INTENT OF THAT ARTICLE IS TO PROVIDE IMMUNITY FROM THE FULL RANGE OF THE RECEIVING STATE'S JURISDICTION. SINCE THE PROVISION APPLIES TO TESTIMONY BEFORE CONGRESSIONAL COMMITTEES AS WELL AS AT TRIAL, AN AMBASSADOR COULD NOT BE THE SUBJECT OF LEGAL PROCESS TO COMPEL HIS TESTIMONY ON OFFICIAL ACTS BEFORE CONGRESS OR A COURT. ARTICLE 39(2) OF THE CONVENTION PROTECTS FORMER AMBASSADORS IN REGARD TO OFFICIAL ACTS PERFORMED DURING THEIR TENURE AS DIPLOMATS.
THE IMMUNITY PROVIDED BY THE CONVENTION MAY BE WAIVED BY THE DIPLOMAT'S SENDING STATE. PRESSURE BY ONE STATE ON ANOTHER TO WAIVE THIS IMMUNITY, HOWEVER, WOULD ESTABLISH A PRECEDENT WHICH WOULD HAVE VERY SERIOUS IMPLICATIONS FOR THAT STATE'S ABILITY TO CONDUCT FOREIGN RELATIONS.
2. AT FEBRUARY 1 NOON BRIEFING, ONE QUESTION WAS ASKED

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ON TONGSUN PARK AND ANSWERED BY SPOKESMAN ALONG LINES OF FOLLOWING GUIDANCE:
QUESTION: WHAT IS YOUR REACTION TO THE KOREAN GOVERNMENT'S ANNOUNCEMENT THAT TONGSUN PARK WILL TESTIFY BEFORE CONGRESS?
ANSWER: WE WARMLY WELCOME THIS EVIDENCE OF PRACTICAL COOPERATION. VANCE
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